

JERRY EUBANKS, et al.,)
)
Plaintiffs,)
)
vs.) Case No. 05 CV 1361 JCH
)
COTTRELL, INC.)
)
Defendant.)

This Matter is before the Court on Defendant's Motion to Strike Plaintiff's Expert (Doc. No. 70), filed December 8, 2006. Also before this Court is Plaintiff's Motion for a Protective Order (Doc. No. 75), filed December 29, 2006.

In view of Plaintiff's failure to abide by the Court's Orders, Weseman will be barred from testifying in this case. In a related case, Chief Judge Carol Jackson also disqualified Weseman for failing to testify on the same topics at issue before this Court. (See 4:05-CV-1852 CEJ, Order, Doc.

No. 94).¹

The Court will, however, give Plaintiff thirty days to designate a new expert and will issue a second amended case management order. Furthermore, the Court also notes that in the event the Plaintiffs indicate that they wish to retain a new expert, the Court will consider, upon motion by Defendant, whether Plaintiffs should be ordered to pay the expenses of Defendant incurred in reliance on the Weseman report.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Strike Linda Weseman (Doc. No. 70) is **GRANTED**.

IT IS FURTHER ORDERED that Defendant's Motion to Exclude Linda Weseman under Daubert (Doc. No. 52) is **DENIED** as moot.

IT IS FURTHER ORDERED that Plaintiff's Motion for Protective Order (Doc. No. 75) is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Second Motion for Extension of Time to File Reply (Doc. No. 78) is **GRANTED** and Plaintiffs have until **Friday, January 26, 2007** to file a Reply.

Dated this 16th day of January, 2007.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE

¹Should the Plaintiffs need a more detailed explanation of why Weseman is being excluded, the Court directs them to see Chief Judge Jackson's order.